

Message

From: Patel, Yogesh P [yogesh.p.patel@wv.gov]
Sent: 10/20/2022 8:30:18 PM
To: Bennett, James [bennett.james@epa.gov]
CC: Vyas, Himanshu [vyas.himanshu@epa.gov]; Hiral Kukkillaya [hiral.kukkillaya@wv.gov]
Subject: Re: Class VI primacy package public notice-- question
Attachments: 33-20.pdf

Mr. Bennett,

Please find attached State Regulation deals with 33-20 Hazardous Waste Management Regulation. Please see section 7.5 regarding financial requirements. Basically, we have adopted CFR 264 Subpart H - Financial Requirements by reference.

Please let me know if you have any questions.

Thank you,
Yogi

On Thu, Oct 20, 2022 at 11:15 AM Bennett, James <bennett.james@epa.gov> wrote:

Yogesh

Thank you

Would you send the portion of the RCRA regulations dealing with financial responsibility.

From: Patel, Yogesh P <yogesh.p.patel@wv.gov>
Sent: Thursday, October 20, 2022 11:03 AM
To: Vyas, Himanshu <vyas.himanshu@epa.gov>
Cc: Hiral Kukkillaya <hiral.kukkillaya@wv.gov>; Bennett, James <bennett.james@epa.gov>
Subject: Re: Class VI primacy package public notice-- question

RCRA permitting program is also with me.

On Thu, Oct 20, 2022 at 10:45 AM Vyas, Himanshu <vyas.himanshu@epa.gov> wrote:

That's good news! Just to be sure, and so that we can put our OGC and HQ management at ease, please share the relevant regulations from the WVDEP RCRA program—our HQ assumed that you have them as part of your RCRA program, but it would be good for them (and for us) to see a copy of the RCRA regulations (I am not familiar with RCRA at all) so that we can compare with the Class I haz wells FR requirements and fully address this issue.

Thanks again,

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Source Water & UIC Section (3WD22)

Four Penn Center

1600 JFK Boulevard,

Philadelphia, PA 19103

Phone: 215-814-2112

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From: Patel, Yogesh P <yogesh.p.patel@wv.gov>

Sent: Thursday, October 20, 2022 9:47 AM

To: Vyas, Himanshu <vyas.himanshu@epa.gov>; Hiral Kukkillaya <hiral.kukkillaya@wv.gov>

Subject: Re: Class VI primacy package public notice-- question

Good Morning Himanshu,

I do not have any problem identifying that cross reference in our Program Description (PD). I can not go and open the regulation again, it will create big issue here. I can spell it out on PD.

Thank you very much,

Yogi

On Wed, Oct 19, 2022 at 9:15 AM Vyas, Himanshu <vyas.himanshu@epa.gov> wrote:

Good morning Yogesh,

I have one follow-up question from our ongoing review of the state regulation which couldn't wait until we bring up the rest of the issues, so Jim and my HQ contact asked me to reach out to you and seek your input.

Our HQ office talked with the Office of General Counsel (OGC) and OGC believes, based on the submitted rule language, that WV does not have an equivalent of Subpart F of Part 144, which covers Class I Haz Financial Responsibility (FR) requirements. Our contractor last year told us that 144.60-144.70 are not listed in the minimum requirements for state programs (145.11), so they were not required for states to have matching regs. That's why we did not ask you to make changes there. However, it is now clear that 145.11 is not an exhaustive list of what is required for program primacy approval, and OGC believes that states need an equivalent for the Subpart F regs.

UIC HQ says that it looks like WV has a RCRA program and that to get the program, you need these haz waste FR requirements. So maybe they're already on the books and a simple cross reference is all you need now. Is this the case? We don't know yet how such a cross-reference (or IBR—incorporate by reference) can take effect—hopefully it can be done via your Program Description document that you submit as part of the formal submission for revision and primacy.

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Source Water & UIC Section (3WD22)

Four Penn Center

1600 JFK Boulevard,

Philadelphia, PA 19103

Phone: 215-814-2112

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From: Patel, Yogesh P <yogesh.p.patel@wv.gov>
Sent: Tuesday, September 27, 2022 4:09 PM
To: Vyas, Himanshu <vyas.himanshu@epa.gov>
Subject: Re: Class VI primacy package public notice-- question

Great. Thank you very much.

On Tue, Sep 27, 2022 at 3:31 PM Vyas, Himanshu <vyas.himanshu@epa.gov> wrote:

Hello Yogesh,

Sorry, I was out of the office on leave yesterday.

We have been actively working on the line-by-line review and concerns raised by our HQ contractor; we are now initiating consultations with our regional counsel and also the HQ office of general counsel, and should be connecting with you after that, so that we can have the legal on board and only raise any issues (and suggest how you might address those) that wouldn't pass muster with HQ.

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Source Water & UIC Section (3WD22)

Four Penn Center

1600 JFK Boulevard,

Philadelphia, PA 19103

Phone: 215-814-2112

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From: Patel, Yogesh P <yogesh.p.patel@wv.gov>
Sent: Monday, September 26, 2022 5:08 PM
To: Vyas, Himanshu <vyas.himanshu@epa.gov>
Subject: Re: Class VI primacy package public notice-- question

Himanshu,

Hope all is well with you. Just checking to see where we are in our regulation approval process?

Thank you,

Yogi

On Wed, Aug 24, 2022 at 11:26 AM Vyas, Himanshu <vyas.himanshu@epa.gov> wrote:

Hi Yogesh,

Not sure whether Jim Bennett talked with you. I understand you are getting pressure to submit the formal package. This is our high priority, rest assured.

I have been working one-on-one with our HQ to review and flag concerns raised by the HQ contractor of the draft rule you submitted to us earlier this year; he feels it is very important to make sure to address remaining items so that we don't get flagged by lawyers at the Office of General Counsel at HQ or the Office of Regional Counsel here in Philly at a later stage when the process is formalized. Our next step is to share these items with you and see if we missed something and you can address the concerns: we hope this can be done either by pointing to something in the state rules we missed, or addressing the issues in the Program Description document or similar that you must submit with the formal rulemaking submission. Before that we want to try to whittle down the issues (Jim and I have pushed for it to the extent we can) as much as possible. I will let you know tomorrow about when we can get this turned around for your review/input when I meet again with HQ.

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Source Water & UIC Section (3WD22)

Four Penn Center

1600 JFK Boulevard,

Philadelphia, PA 19103

Phone: 215-814-2112

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From: Patel, Yogesh P <yogesh.p.patel@wv.gov>
Sent: Friday, August 19, 2022 4:15 PM
To: Vyas, Himanshu <vyas.himanshu@epa.gov>
Subject: Re: Class VI primacy package public notice-- question

Hi Himanshu,

Hope you are doing well. Just a quick question: where are we on our regulation approval (47CSR13)?

I started getting pressure to submit you guys a whole primacy package for review and approval? As we talked last time, I am waiting on you folks to approve regulation first and I will compile whole package including approved regulation and send it to you.

Thank you,

Have a nice weekend,

Yogi

On Tue, Sep 28, 2021 at 10:04 AM Anderson, Connie J <connie.j.anderson@wv.gov> wrote:

Hi Himanshu,

Go to our Secretary of State website at:

<https://sos.wv.gov/Pages/default.aspx>

Hover over Administrative Law and select Proposed Rules

In the Search Box, type 47-13 and the row will appear.

Click on the blue 47-13 and the records will pull up, including the notice.

All proposed changes were incorporated into a single filing.

I'm copying Yogesh so he knows you'll review. Please let us know if there's any more information you need.

Thanks,

Connie

On Tue, Sep 28, 2021 at 9:53 AM Vyas, Himanshu <vyas.himanshu@epa.gov> wrote:

Good morning, Connie.

Not sure if this request should go to you or to Yogesh Patel.

Could you share the public notice WVDEP prepared when the regulatory update package was sent out for public participation/comment? I am guessing that there would have been just one public notice for the rule update for existing wells alongside the WVDEP plan for taking primacy for Class VI, or were those two actions separately public noticed?

I need to review the public notice language as it applies to Class VI (could be one and the same as for the whole rules update package), because I just got a heads-up from our HQ contact regarding certain requirements that such public notice should meet. I'm hoping WV's notice is adequate.

Thanks,

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Source Water & UIC Section (3WD22)
1650 Arch Street

Philadelphia, PA 19103-2029

Phone: 215-814-2112

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